



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/159250

PRELIMINARY RECITALS

Pursuant to a petition filed July 23, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 13, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly calculated Petitioner's August FoodShare (FS) benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
By: Katherine Mays
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's household size is 1.

3. On June 25, 2014 Petitioner completed a renewal application. Petitioner reported that her monthly gross income was \$804.78 from SSI. Petitioner reported her monthly rent was \$425, and that her only utility expense was a phone at \$90 per month.
4. Effective August 1, 2014 Petitioner's monthly FS benefits were reduced from \$157 to \$31.
5. The Division of Hearings and Appeals received Petitioner's request for fair hearing on July 23, 2014.
6. At the hearing Petitioner stated that her rent is actually \$325 per month, and she pays an additional \$100 per month for gas and electric.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 2 is \$152, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

Following these rules the petitioner's FS benefits calculations effective August 1, 2014 were as follows. Petitioner's gross income for August 2014 was \$804.78 from SSI. From Petitioner's gross income of \$804.78 the agency subtracted the standard deduction of \$152 giving Petitioner an adjusted income of \$652.78. Petitioner received an excess shelter deduction as her shelter expenses of \$425 in rent and the phone allotment of \$30 were more than half of her adjusted income. The shelter deduction was calculated as follows: Rent (\$425) plus utility standards (\$30) totaled \$455. Petitioner's adjusted income was \$652.78, half of that is \$326.39. The agency subtracted half of Petitioner's adjusted gross income (\$326.39) from her shelter and utility costs (\$455) for a total shelter deduction of \$128.61.

Thus, the August 2014 allotment calculation correctly looked like this:

Gross income	804.78
Minus Earned Inc. Deduction	-000.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	-152.00
Adjusted Income	652.78
Minus Shelter Deduction	<u>-128.61</u>
Net Income	524.17

The correct allotment for a household of one with net income of \$524.78 was \$31.00 in August 2014. *FS Wisconsin Handbook*, 8.1.2, p.5.

In this case the issue lies in the reduction. Petitioner's argument is that her expenses and income did not change, but her FS benefits were drastically decreased in August 2014. The reason for this decrease is the 2014 farm bill. Prior to the 2014 Farm Bill the Wisconsin Department of Administration (DOA) issued an annual energy assistance payment of \$1 to all FS households who were not already receiving energy assistance. This allowed Wisconsin to grant all FS households the Heating Standard Utility Allowance (HSUA) of \$450. The actual utility usage did not matter. The 2014 Farm Bill changed this practice.

The HSUA deduction affects the excess shelter deduction. In this case were Petitioner still receiving that \$450 HSUA, Petitioner's rent of \$425 would be added to the \$450 HSUA, which would total \$875 in shelter costs. From the \$875 shelter costs, the agency would subtract half of her adjusted income, which is \$336.39 for a total shelter deduction of \$548.61. ($875 - 336.39 = 548.61$). The agency would then subtract the shelter deduction of \$548.61 from the adjusted income of \$652.78 making Petitioner's net income \$104.17. The monthly FS benefits for a family of one with a net income of \$104.17 is \$157.00. *FS Wisconsin Handbook*, 8.1.2, p.1.

The 2014 Farm Bill changed Wisconsin's practice of allowing all FS households to take the maximum utility allowance. The 2014 Farm Bill requires a household to have a received a WHEAP or energy assistance payment of greater than \$20 to receive the HSUA of \$450. 7 U.S.C. 2014(e)(6)(C)(ii)(I) Therefore, "households that have not received WHEAP will receive the appropriate utility standard based on the utility obligation(s) incurred by the household." *DHS Operations Memo 14-16 Amended*.

In this case Petitioner did not receive WHEAP and her only monthly utility obligation is a phone. The monthly utility allotment for a phone is \$30. *FS Wisconsin Handbook*, 8.1.3. The actual monthly cost of the phone does not matter.

Petitioner testified that she completed an online verification for her FS benefits where she reported that her monthly rent was \$425 and her only utility obligation was a phone. At the hearing she stated that her rent is actually \$325 and she pays \$100 per month for gas and electric. This change would cause an increase in her FS benefits. However, this change was not reported until the hearing on August 13, 2014. The agency must rely on the information provided by Petitioner. Relying on that information and given the change with the 2014 Farm Bill, the agency correctly calculated Petitioner's August FS benefits.

CONCLUSIONS OF LAW

The agency correctly calculated Petitioner's FS benefits for August 2014.

THEREFORE, it is

ORDERED

That the Petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 14th day of August, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on August 14, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability